IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.01.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.32887 & 32888 of 2017
and
W.M.P.Nos.36253 & 36254 of 2017

M/s.New SRN Agencies,
Rep.by its Proprietor,
P.Karikalan,
No.13-A, Royal Street,
Keelkattalai, Chennai - 600 117. ...Petitioner in both W.Ps.

Vs.

The Assistant Commissioner(CT),
Madipakkam Assessment Circle,
Chennai - 600 100. ...Respondent in both W.Ps.

Prayer in W.P.No.32887 of 2017: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in his Proceedings in TIN No.33920988258/2013-14 dated 16.11.2017 and quash the same and to direct the respondent to pass revised orders for the year 2013-14 by providing copies of the mismatch details taken from the WEBSITE of the sales tax department Intra-net and thus render justice.

Prayer in W.P.No.32888 of 2017: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in his Proceedings in TIN No.33920988258/2014-15 dated 16.11.2017 and quash the same and to direct the respondent to pass revised orders for the year 2014-15 by providing copies of the mismatch details taken from the WEBSITE of the sales tax department Intra-net and thus render justice.

For Petitioners in both W.Ps : M/s.M.MD.Ibrahim Ali
For Respondents in both W.Ps : Ms.G.Dhanamadhri
Government Advocate

O R D E R

Heard Mr.M.MD.Ibrahim Ali, learned counsel for the petitioner and Ms.G.Dhanamadhri, learned Government Advocate, who takes notice on behalf of the respondents.

2. This is the second time the petitioner is before this Court, challenging the assessment orders under the provisions of "TNVAT" Act for the year 2013-14 and 2014-15. Earlier, the petitioner had filed W.P.Nos.22134 and 22135 of 2017 and the said writ petitions were allowed with certain directions by order dated 04.09.2017. The operative portion of the order is as follows:

> "8.Accordingly, these writ petitions are allowed and the impugned orders are set aside and the matter is remanded to the respondent for fresh consideration. The respondent shall fix the date for personal hearing and on the said date, the petitioner shall appear before the respondent and produce all the documents sought for and the respondent shall personally verify those documents and details and re-do the assessment in accordance with law. No costs."

3. In terms of the above direction, the petitioner was directed to appear before the respondent and produce all documents sought for and the respondent was directed to personally verify the documents and details and re-do the assessment in accordance with law. The respondent has passed the impugned assessment orders stating that the petitioner did not comply with the order passed in the earlier writ petition. On the contrary, the petitioner seeks for copies of invoices of the Annexure-II in the Form I returns of the sellers, which according to the Assessing Officer has no relevancy to the point in issue.

4. With these observations, the assessments were completed and the petitioner objections were rejected. From the objections given by the petitioner dated 20.10.2017, which is after the order being passed by this Court in the earlier writ petitions, the petitioner admits that he has received all details pertaining to 192 invoices out of 472. It is further stated that in respect of 258 invoices, no details have been provided. Therefore, the petitioner wants the copies of the invoices of those 258 transactions, of which, he says 22 invoices are repeated. Apart from that the petitioner wanted details of movement of goods to his shop and Annexure-II in the Form I returns of the sellers. So far as furnishing of copies of invoices is concerned, the assessing officer cannot be directed to furnish the copies of invoices nor can he be directed to prove the movement of goods or give Annexure-II returns of the seller. All that can be furnished is only the invoice number, the date of invoices, the sellers name, the commodity code, tax payable/paid. In any event, the petitioner

is bound to explain 192 invoices for which all details have been furnished by the assessing officer. Therefore, I find that the petitioner has not complied with the directions issued to them to the extent indicated above. However, considering the fact that the assessment should be completed at the earliest and appropriate tax should be recovered from the petitioner, this Court is inclined to send back the matter to the respondent for a fresh decision.

5. Accordingly, the writ petition is disposed of, by directing the petitioner to treat the impugned order as show cause notices and file further objections, specifically dealing with 192 invoices, for which full details have been furnished by the assessing officer and appear before the respondent in person within a period of two weeks from the date of receipt of a copy of this order, on a date fixed by the respondent and on satisfactory explanation, the petitioner can request for the other invoice numbers and other relevant details regarding remaining 258 invoices which shall be furnished by the respondent and after hearing the petitioner on those invoices also, the respondent shall re-do the assessment in accordance with law. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS-iv)

//True Copy//

Sub Assistant Registrar

sk/kak
To

The Assistant Commissioner(CT),
Madipakkam Assessment Circle,
Chennai - 600 100.

+1cc to Mr.M.MD.BRAHIM ALI, Advocate, S.R.No.1734
+1cc to the Spl. Government Pleader, S.R.No. 2176

W.P.Nos.32887 & 32888 of 2017

RJ(CO)
TR(16/02/2018)